

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

BARRY A. ROE

PLAINTIFF

v.

Civil Action No. 1:11-cv-00321-HSO-RHW

MICHAEL J ASTRUE,
Commissioner of Social Security

DEFENDANT

**ORDER GRANTING PLAINTIFF'S MOTION FOR AWARD OF
ATTORNEY FEES PURSUANT TO THE EQUAL ACCESS TO JUSTICE
ACT AND DENYING PLAINTIFF'S REQUEST THAT THE
AWARD BE MADE PAYABLE TO PLAINTIFF'S COUNSEL**

BEFORE THE COURT is the Motion [16] for Award of Attorney Fees Pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d) and 5 U.S.C. § 504 ("EAJA"), filed by Plaintiff Barry A. Roe. 28 U.S.C. § 2412(d)(1)(A) provides:

Except as otherwise specifically provided by statute, a court shall award to a prevailing party other than the United States fees and other expenses, in addition to any costs awarded pursuant to subsection (a), incurred by that party in any civil action (other than cases sounding in tort), including proceedings for judicial review of agency action, brought by or against the United States in any court having jurisdiction of that action, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust.

28 U.S.C. § 2412(d)(1)(A). The Defendant Michael J. Astrue, Commissioner of Social Security, does not oppose Plaintiff's request for attorney fees in the amount of \$593.75. He does object to the portion of Plaintiff's Motion requesting that the award

be made payable to Plaintiff's counsel, rather than to Plaintiff. The United States Supreme Court held in *Astrue v. Ratliff*, 130 S. Ct. 2521, 2525 (2010), that the litigant, rather than his or her attorney, is entitled to receive attorney fees and expenses pursuant to 28 U.S.C. § 2412(d)(1)(A). Accordingly, Plaintiff's unopposed request for an award of attorney fees pursuant to the EAJA in the amount of \$593.75 should be granted, but the award should be made payable to Plaintiff, and not to his counsel.

IT IS, THEREFORE, ORDERED AND ADJUDGED that, the Motion [16] for Award of Attorney Fees Pursuant to the Equal Access to Justice Act, filed by Plaintiff Barry A. Roe, is **GRANTED IN PART AND DENIED IN PART**. Plaintiff Barry A. Roe is awarded attorney fees in the amount of \$593.75. This award shall be made payable to Barry A. Roe, and not to his counsel.

SO ORDERED AND ADJUDGED, this the 6th day of December, 2012.

s/ Halil Suleyman Ozerden
HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE